

Piers Norris Turner, "The Arguments of *On Liberty*:
Mill's Institutional Designs," *Nineteenth-Century
Prose*, Vol. 47, No. 1: Spring 2020, pp. 121-156.

The Arguments of On Liberty: Mill's Institutional Designs

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I. Introduction

Every reader of John Stuart Mill's *On Liberty* confronts the difficulty of explaining how its various arguments fit into a coherent whole. Consider the puzzle that its main defense of freedom of discussion in Chapter 2 does not rely on the famous liberty principle introduced in Chapter 1, even though Mill calls that principle the "object" of his essay.¹ The liberty principle asserts that society's consideration of coercive interference with rational adults is legitimate only when there is a risk of nonconsensual "harm to others" and never on paternalistic grounds.² But Mill then defends freedom of discussion *not* by claiming that it involves no nonconsensual harm to others, but rather by claiming that the harm it might cause is more than compensated by the good it produces. His main defense of free discussion is like his defense of free trade: discussion and trade are both social conduct that society *may* interfere with in principle, but on balance it would not be beneficial to do so.³ Mill observes that "sectarianism," which he regards as a major contributor to social harm, is "often heightened and exacerbated" by free discussion.⁴ But he then argues that the benefits of maintaining free discussion *outweigh* its costs because it offers the opportunity to exchange falsehood for truth, or partial truth for better adapted partial truth, and to keep our beliefs from becoming "dead dogma." Mill's defense of free discussion does not turn essentially on the application of the liberty principle, but on general utilitarian reasons.

Consider also the interpretive troubles arising from the familiar claim that Mill's defense of "individuality" in Chapter 3 provides his

rationale for the liberty principle. In his *Autobiography* he writes that *On Liberty* is “a kind of philosophic text-book of a single truth,” namely, “[...] the importance, to man and society, of a large variety in types of character, and of giving full freedom to human nature to expand itself in innumerable and conflicting directions.”⁵ A great deal of effort has therefore been dedicated to showing, on one hand, how this vision of flourishing individuality could justify an absolute anti-paternalism principle like the liberty principle and, on the other hand, how the liberty principle alone could secure Mill’s liberal vision, despite its rather narrow articulation in terms of the sorts of reasons that may trigger social interference. These attempts face two clear problems: first, that the value of individuality cannot alone justify an absolute principle within Mill’s utilitarian framework; second, that the liberty principle seems capable of securing Mill’s liberal vision alone only if “harm to others” is restricted in a way that he never specifies.⁶ The first of these problems—the absolutism problem—gives us strong reason to doubt that the value of individuality is meant to provide the full justification of the liberty principle, rather than just a defeasible presumption against social coercion. In fact, when Mill expressly develops the liberty principle in Chapter 4 of the essay, he provides a distinct, *competence*-based rationale for it that goes beyond the appeal to individuality: the competent individual, he argues, is *always* more likely than anyone else to be the best judge of his own good. The same presumption applies to individuals consensually engaged with each other. But if the value of individuality does not provide the specific rationale that makes the liberty principle absolute, then what *exactly* is its role in the overall argument of *On Liberty*?

In this essay I address the question of whether all that unites the main parts of *On Liberty*—the liberty principle, the defense of free discussion, the promotion of individuality, and the claims concerning competent decision-making—is a general concern with individual liberty, or whether we can say something more concrete about how they are related. I argue that the arguments of *On Liberty* form a structured

whole once we appreciate them through the lens of how Mill goes about designing political institutions in *Considerations on Representative Government* and related essays (including many that pre-date *On Liberty*).⁷ This will also help place *On Liberty* within his overall political philosophy.

Properly understood, I argue, *On Liberty* is an instance of the institutional design approach that Mill applies to social and political arrangements. Demonstrating this requires first laying out the elements of Mill's institutional design approach and then showing that *On Liberty* neatly applies them.

I acknowledge that focusing on Mill's institutional designs might seem like a non-starter. Political philosophers have tended to read *Utilitarianism* and *On Liberty* for Mill's core theory, and *Representative Government* only for details of his practical democratic commitments, such as his support for proportional representation. *On Liberty* and *Representative Government* have therefore usually been related in only piecemeal fashion, though with allowances for their ultimate unification by the principle of utility.⁸ Moreover, when related more systematically—as potentially structured by a common approach or aims—commentators have worried that the élitist, competence-driven elements in *Representative Government* are inconsistent with his commitments to individuality and anti-paternalism in *On Liberty*.⁹ By contrast, I argue that *Representative Government* and *On Liberty* are not merely compatible, but expressions of the very same underlying approach. In the end, I hope to show that Mill applies his utilitarianism consistently across a range of texts, and thereby reveal what is relatively fixed and what is more easily given up in his liberal democratic theory. The first task, then, is to reconstruct his institutional design approach in *Representative Government* and related writings.

Mill is a utilitarian, and so it bears mentioning that the ultimate standard of his designs is the "well-being of society" or the "aggregate interests of society."¹⁰ However, we will focus on two more proximate aims that Mill believes should structure our institutional designs:

1. *The educative aim*: the improvement of the people themselves¹¹
2. *The organizational aim*: the organization of people's extant good qualities to promote competent (informed, public-spirited) decision-making

The basic idea is that the better the people themselves become, and the better the structures for giving effect to whatever virtue, intelligence, and energy they possess, the better will institutions promote and preserve social well-being. Mill makes clear that the educative aim is paramount:

If we ask ourselves on what causes and conditions good government in all its senses, from the humblest to the most exalted, depends, we find that the principal of them, the one which transcends all others, is the qualities of the human beings composing the society over which the government is exercised.¹²

To understand the structure and strength of Mill's social and political commitments, then, we must keep track of how educative and organizational arguments, separately or together, result in the social and political institutions he recommends. Mill is willing to tinker a great deal with the organizational shape of liberal democracy, but he regards certain basic liberal and democratic institutions as essential to the educative aim in any modern, progressive society.

I will argue that *On Liberty* straightforwardly fits this pattern of institutional design. It offers, first and foremost, a defense of free discussion and "experiments of living" on broadly educative grounds. This is the overarching argument of *On Liberty* reflected both in the passage quoted from Mill's *Autobiography* and in his important claims about the connection between liberty and progress.¹³ But *On Liberty* then also focuses our attention on a particular organizational principle—the liberty principle—that assigns rightful authority between society and the individual on the basis of the competence of the relevant parties. When it comes to self-regarding concerns involving no nonconsensual harm to others, the individual is likely the most competent party and should therefore decide the matter.

Let me foreshadow two results. First, the institutional design approach to *On Liberty* can help to explain how Mill would update his views in light of later empirical work. For instance, although it is hard to imagine Mill ever relinquishing his deep commitment to social diversity (justified on educative grounds), we could more easily imagine him revising his strict anti-paternalism (justified primarily on organizational grounds) in light of modern cognitive psychology and behavioral economics. Changing his view on the latter does not imply any change in view on the former.

Second, the design approach resolves certain apparent inconsistencies in Mill's works. For instance, it shows that his justification of the liberty principle is actually of a piece with his justification of élitist decision-making mechanisms in *Representative Government*. In both cases, he argues that decisional authority with respect to some matter ought to be given to whichever party is most competent to make the relevant utilitarian calculation. The liberty principle and Mill's élitism come from the same *organizational* place in his thought.

But it is time to circle back and try to make good on these claims. My discussion will proceed as follows. In Section II, I reconstruct in detail Mill's design approach in *Representative Government* and related works, structured by educative and organizational considerations. In Section III, I then argue that *On Liberty* is structured by those same considerations and in the same way, which allows us to see both how the parts of that essay fit together and how that essay fits with the rest of his political philosophy.

II. Mill's Institutional Design Approach¹⁴

"Form of Government" and "Centralization"

The first thing to appreciate about Mill's designs, not normally noted, is that they have two distinct objects: (1) a "form of government" and (2) a scheme of "centralization."¹⁵ The "form of government" concerns primarily the question of *sovereignty*—that is, who is to have "ultimate control" over government—and it is answered by choosing

from among versions of monarchy, aristocracy, and democracy.¹⁶ “Centralization” then concerns the form and extent of principled constraints that should be placed on the sovereign’s rightful authority in a particular state of society, that is, “the limits which separate the province of government from that of individual and spontaneous agency, and of central from local government.”¹⁷ Fundamentally, centralization concerns the degree to which despotism by the sovereign is allowable or ought to be limited by liberty-preserving principles and safeguards.¹⁸ Although the form of government and scheme of centralization are conceptually independent elements in a given state of society, Mill seems to conclude that states of society in which democracy is justified are also those in which extensive protections for individual liberty would be most beneficial.¹⁹

A third concern is not strictly part of Mill’s institutional designs, namely, the *specific policies* a well-functioning government ought to pursue once the form of government and scheme of centralization have been specified. Mill has a great deal to say about these policies, and many of the considerations he raises about forms of government and centralization also bear on his discussion of the good or harm of different policies. But specifying a form of government and a scheme of centralization does not obviate the need for decision-making or judgment on a host of practical problems. We should not think that every specific policy proposal must be reflected in the very structure of his institutional designs; sometimes they are just his recommendations to the appropriate social or political authority about what to do. This will be important for our understanding of the liberty principle as a design component, because some interpreters have asked that principle to do more work than Mill intended it to do. What Mill hopes to achieve by settling the form of government and scheme of centralization is simply to assure us that whatever decisions are made, they will be the result of decision-making structures that reflect his educative and organizational aims. Let us turn to those now.

Progress and the "twofold division of merit"

As noted, Mill's basic commitment is to the principle of utility, but he accepts the practical need to identify proximate aims to guide the design of forms of government and schemes of centralization.²⁰ His first move in *Representative Government* is to observe that "conduciveness to progress [...] includes the whole excellence of a government."²¹ Given the difficulty of comprehending what the principle of utility will require in the long-term, *progress* serves as Mill's principal end-in-view throughout his career. In his *Autobiography* he summarizes the development of his political thought in the early 1830s this way:

I now looked on the choice of political institutions as a moral and educational question [...] and thought it should be decided mainly by considering what great improvement in life and culture stood next in order for the people concerned, as the condition of their further progress, and what institutions were most likely to promote that [...].²²

In concrete terms, progress means the education of individual character and the furnishing of those outward goods—such as security—that facilitate improvements in individual and social well-being in a given state of society.²³ However, in *Representative Government*, Mill also observes that the term "progress" is "unapt" for his design purposes because the same factors that promote progress are needed to *preserve* society against relapse, even "were there no improvement to be hoped for."²⁴ He therefore introduces the two proximate aims—the *educative* and *organizational* aims—that define the "twofold division of the merit that any set of political institutions can possess:"

It consists partly of the degree in which they promote the general mental advancement of the community, including under that phrase advancement in intellect, in virtue, and in practical activity and efficiency; and partly of the degree of perfection with which they organize the moral, intellectual, and active worth already existing, so as to operate with the greatest effect on public affairs.²⁵

As noted above, the *educative* element of this division of merit comes first: “the most important point of excellence which any form of government can possess is to promote the virtue and intelligence of the people themselves.”²⁶ Political institutions are an “agency of national education” not just through schools, but in the whole way they shape the motivations, character, beliefs, hopes, and expectations of those living under them.²⁷ The educative element of a government is therefore “the one indispensable merit [...] in favour of which it may be forgiven almost any amount of other demerit compatible with progress.”²⁸

However, because even virtuous and intelligent individuals will have difficulty promoting the good when situated within decision-making structures that do not put their good qualities to effective use, the second division of merit is the *organizational* element, i.e., “the quality of the machinery itself; that is, the degree in which it is adapted to take advantage of the amount of good qualities” existing at any given time.²⁹ In the organizational element, Mill directly carries forward Jeremy Bentham’s concern with securing “appropriate official aptitude”—what we might now call *competence*—in government.³⁰ For Bentham, appropriate official aptitude has three components: *moral* aptitude, *intellectual* aptitude, and *active* aptitude. Generally speaking, moral aptitude concerns one’s public-spiritedness or disposition to promote the overall good. Intellectual aptitude concerns one’s expertise and ability to weigh information related to some matter. Active aptitude concerns one’s capacity to put one’s commitments into action. Following Bentham, Mill spends a great deal of time developing structures to secure the public spirit and expertise of those making the decisions at all levels, and then allocating decisional authority in each domain to whichever available party is most competent to make decisions. Mill’s defense of representative democracy is perhaps the main example of his organizational thought.³¹

We will further explore Mill’s “twofold division of merit” as we go. But four clarifications will help. First, Mill acknowledges that it is slightly misleading to suggest a sharp distinction between government as “a great influence acting on the human mind, and a set of organized arrangements

for public business."³² He recognizes that good organization itself tends to promote improvement in the people's "state of cultivation."³³ Similarly, the effect of bad organization "is felt in a thousand ways in lowering the morality and deadening the intelligence and activity of the people."³⁴ On the flip side, the educative aim itself has implications for the "machinery" or structure of the institutions. To manage affairs well *now* is in part to make room for the mechanisms of individual development that drive social progress.

Second, Mill recognizes that our judgments about progress are epistemically limited. While some steps society must take are discernible, there is also "the far wider indefinite range which is at present out of sight."³⁵ This is not to say that Mill eschews all ideal theory or long-term thinking.³⁶ But he concentrates, at any given time, on "the *immediate* impediment to progress."³⁷ Moreover, his educative arguments primarily involve general recommendations rather than specific measures, and they draw on what experience has taught us will consistently contribute to individual and social development over the long-term—such as free discussion in "civilized" society—rather than more temporary measures.³⁸ Accepting these limits makes the educative element of his designs more tractable.

Third, as we shall see, sometimes educative and organizational arguments support the same institutional designs. While educative arguments are more important, and certain institutions seem to be defended *primarily* in either educative or organizational terms, these arguments often converge. This is especially significant in those cases where we might doubt the educative or organizational case; denying one argument need not undermine the other.

Finally, Mill recommends different forms of government and schemes of centralization for different states of society. For example, in an "uncivilized" state of society—a state in which a critical mass of the population has not sufficiently developed their spontaneous cooperative capacities³⁹—he argues along Hobbesian lines for monarchy (form of government) and despotism (scheme of centralization):⁴⁰

The indispensable virtue, therefore, in a government which establishes itself over a people of this sort is, that it make itself obeyed. To enable it to do this, the constitution of the government must be nearly, or quite, despotic [...]. Accordingly, the civilization of such tribes [...] is almost always the work of an absolute ruler, deriving his power either from religion or military prowess.⁴¹

But as societies develop, so do Mill's educative recommendations. At first any despot will do, but at some point it becomes clear that, without a change in the form of government and scheme of centralization, further improvement will be held hostage to the "happy accident" of a good despot willing not to abuse his power.⁴² Moreover, as society becomes civilized, individuals develop cooperative tendencies and fellow-feeling, and threats from a despot are no longer needed to motivate cooperation.⁴³ Further development is then better served by the people themselves taking over ultimate control in some form of democracy and starting on the path of "spontaneous improvement" that places limits on sovereign power in favor of "mental liberty and individuality."⁴⁴

With those preliminaries out of the way, let us now look at the educative arguments Mill gives for the form of government and degree of centralization appropriate to a modern, "civilized" state of society.

The Educative Argument for Democracy

In civilized circumstances, Mill argues that the "superiority of popular government"—democracy, as the form of government—is "indisputable."⁴⁵ This is because democratic participation itself directly contributes to individuals' moral, intellectual, and active development. Democracy is a "school of public spirit."⁴⁶ Through public discussion, voting, serving on juries, holding local offices, and other public involvement, individuals become educated on public affairs and develop a concern for the social good.⁴⁷ Monarchy and aristocracy offer no such similar opportunities or responsibilities for the great majority of citizens. Within important competing demands on their time, individuals should be encouraged to participate in the representative system.⁴⁸

Educative Arguments for Liberty

Turning to the *scheme of centralization* appropriate to a civilized state of society, Mill makes perhaps his most famous argument, an educative case for significant limits on the exercise of sovereign authority. As we shall see later, this argument is at the heart of *On Liberty*, but it is on display already in other texts. For instance, in his 1854 diary, we find Mill denying the sovereign the authority to limit public discussion because it is crucial to individual and social development:

In government, perfect freedom of discussion in all its modes—speaking, writing, and printing—in law and in fact is the first requisite of good because [it is] the first condition of popular intelligence and mental progress. All else is secondary. A form of government is good chiefly in proportion to the security it affords for the possession of this.⁴⁹

Combining the educative case for democracy and freedom of discussion in *Representative Government*, Mill supports “the utmost possible publicity and liberty of discussion, whereby not merely a few individuals in succession, but the whole public, are made, to a certain extent, participants in the government, and sharers in the instruction and mental exercise derivable from it.”⁵⁰

Mill then extends this educative argument from free discussion to modes of living, supporting openness and social experimentation. In language that prefigures famous passages from *On Liberty*, he argues in *Principles of Political Economy* that because of the tendency of even democratic governments to impose a uniformity on their citizens, there is a “necessity for surrounding individual independence of thought, speech, and conduct, with the most powerful defences, in order to maintain that originality of mind and individuality of character, which are the only source of any real progress, and of most of the qualities which make the human race much superior to any herd of animals.”⁵¹ Progress requires liberal social conditions allowing for:

[...] that multiform development of human nature, those manifold unlikenesses, that diversity of tastes and talents, and variety of intellectual points of view, which not only form a great part of the interest of human life, but by bringing intellects into stimulating collision, and by presenting to each innumerable notions that he would not have conceived of himself, are the mainspring of mental and moral progression.⁵²

On educative grounds, then, Mill commits himself fully to liberal freedoms of thought and discussion, freedom of association, and social diversity. They play a large role in justifying a presumption against social interference—a general, but defeasible “non-interference” principle—according to which “the onus of making out a case always lies on the defenders of legal prohibitions.”⁵³

There is more one might add to this story, but this is enough to show the overarching educative framing of Mill’s institutional design approach with regard to both the form of government and degree of centralization. The convictions expressed in these arguments for democracy and liberal social conditions are fixed points in Mill’s political philosophy.

Organizational Arguments

Educative arguments leave open many questions about how to administer public affairs in a given time and place. Consider, for instance, the variety of liberal democracies in the world today, none obviously satisfying the educative element any better than the others. How do we decide among them? In *Representative Government* and related essays, Mill introduces a framework for thinking about how to organize the good qualities available in a particular society to best manage its public affairs.

What is most striking about Mill’s organizational thinking is his attention to jurisdictional matters, that is, to the question of *who should decide what*. Judgment is unavoidable and uncertain—like Bentham, Mill saw the limits of the felicific calculus—and so his practical utilitarianism focuses on the qualities of the *personnel* at hand to make decisions.

Following Bentham, he explores what is required institutionally to give voice to the relative virtue, intelligence, and energy—the relative *competence*—of available parties: “All government which aims at being good, is an organization of some part of the good qualities existing in the individual members of the community, for the conduct of its collective affairs.”⁵⁴ Wherever possible—and consistent with the basic liberal democratic framework justified on educative grounds—he introduces organizational specifications grounded in competence considerations, namely, orientation to the public good and expertise with regard to the relevant subject matter. Failures of either orientation or expertise would lead to poor decision-making.⁵⁵

Organizational Arguments for Democracy

Let us look first at his organizational argument with regard to the appropriate form of government in a civilized state of society, democracy. The main organizational argument for democracy is based not on expertise, but on orientation to the public good. Whatever the public's deficiencies in expertise concerning details of policy, and despite the dangers of a tyranny of the majority, a democratically-controlled government is more likely than either monarchy or aristocracy to be responsive to the public good over time: “The interest of the monarch, or the interest of the aristocracy, either collective or that of its individual members, is promoted, or they themselves think that it will be promoted, by conduct opposed to that which the general interest of the community requires.”⁵⁶ The people should not govern in an everyday sense, but they must retain the authority to turn out their rulers as “security for good government:”

This security they cannot have by any other means than by retaining in their own hands the ultimate control. If they renounce this, they give themselves up to tyranny. A governing class not accountable to the people are sure, in the main, to sacrifice the people to the pursuit of separate interests and inclinations of their own.⁵⁷

Like Bentham and his father, James Mill, he emphasizes the importance of placing a popular check on government in order to maintain an “identity of interest” between rulers and the ruled: “From the principle of the necessity of identifying the interest of the government with that of the people, most of the practical maxims of a representative government are corollaries.”⁵⁸ After a certain point, identity of interest may be balanced against other values, but security for good government is essential. And for this, the people must exercise “ultimate control” over government; they must be sovereign.

Within a broadly democratic framework, however, Mill also argues that certain individuals should have greater influence than others due to their superior competence. This is a constant feature of Mill’s political writings over time, reflected in every aspect of his political designs from the electoral system to the representative assembly to legislative commissions. To bring home the significance of competence considerations in the organizational element, it is worth surveying several examples of Mill’s organizational proposals.

Representative democracy, Mill argues, is government by the “comparatively few, specially educated for the task.”⁵⁹ Representation gives voice to competence within the democratic framework:

A representative constitution is a means of bringing the general standard of intelligence and honesty existing in the community, and the individual intellect and virtue of its wisest members, more directly to bear upon the government, and investing them with greater influence in it, than they would in general have under any other mode of organization.⁶⁰

Yet, competence considerations also *limit* the representative assembly’s decision-making authority in two key ways. First, Mill argues that the assembly should not usurp the everyday governing authority of the executive branch, because the latter is better trained for *that* task: “Instead of the function of governing, for which it is radically unfit, the proper office of a representative assembly is to watch and control the

government."⁶¹ Emphasizing the jurisdictional—*who should decide what*—nature of his approach, Mill argues that "The proper duty of a representative government in regard to matters of administration, is not to decide them by its own vote, but to take care that the persons who have to decide them shall be the *proper persons*."⁶² Second, competence considerations constrain the assembly's role with respect to the legislative function of government. He writes in his *Autobiography* of the "[...] need of a Legislative Commission, as a permanent part of the constitution of a free country; consisting of a small number of highly trained political minds, on whom, when Parliament has determined that a law shall be made, the task of making it should be devolved."⁶³ The picture that emerges is one of a nested set of decision-making domains, in which decision-making authority is allocated to whichever party is best suited to make those decisions. The assembly, the executive, and the legislative commission each have a role to play, consistent with a fundamental democratic check on power.

If we move back to the electoral level, we find that Mill's views on "pledges," plural voting, and proportional representation are also shaped by competence considerations. Let's take them quickly in turn.

In his discussion of pledges—of whether democratic voters should secure promises from their representatives to govern in particular ways—Mill argues that it would be irrational to demand guarantees from representatives who were elected for their superior political virtue and expertise:

Now, all we contend for, all we have ever contended for, is, that the people ought to have the benefit of having their affairs managed by the wise, rather than by those who are otherwise [...] there may be a wiser government in the moon, perhaps, than the government of the wisest persons that can be had, but how, in the name of reason, is it to be got at? Shall we mend the matter by setting a less wisdom to dictate to a greater?⁶⁴

He also proposes a plural voting scheme, detailed in "Thoughts on Parliamentary Reform" (1859), in which the educated and others who can

demonstrate their expertise should receive extra votes—though, for identity of interest reasons, not enough to overcome a majority opposing them. He does so expressly on competence grounds: “Now, it can in no sort be admitted that all persons have an equal claim to power over others. The claims of different people to such power differ as much, as their qualifications for exercising it beneficially.”⁶⁵ To grant equal votes to people with unequal qualifications is “reversing all the rules of rational conduct.”⁶⁶ In *Representative Government* he reiterates this point, arguing that “The opinion, the judgment, of the higher moral or intellectual being, is worth more than that of the inferior: and if the institutions of the country virtually assert that they are of the same value, they assert a thing which is not.”⁶⁷

Mill’s defense of Thomas Hare’s proportional representation plan in “Recent Writers on Reform” (1859) also has an important competence element. He writes that it would “prodigiously improve the personnel of the national representation” because it would provide an opportunity for someone of great “personal merit” to draw votes from all over the country and have a chance against some “local grandee”: “An assembly thus chosen would contain the *élite* of the nation.”⁶⁸ In all these examples of Mill’s organizational specification of a democratic form of government, competence appears as a key structuring element of his institutional designs.

They also bring to mind long-standing worries about Mill’s democratic credentials. But it is important to appreciate that, on his view, these specific competence-based proposals must be consistent with the people maintaining ultimate control, which is justified on both educative and more fundamental organizational grounds. What matters for our purposes is that Mill does not identify democracy with any simple majoritarian voting procedure, but with the basic notion that no “minority should be allowed to outweigh the majority.”⁶⁹ These are not the same, because—as Mill repeatedly points out—simple majoritarian voting may result in a scenario where the *bare* majority of a public is able to elect the *great* majority or all of the representatives. If that

happens, it is then possible that a bare majority of the *representatives*, representing a minority of the overall public, could come to control the government—while other minority interests might have very little or no representation at all. This is the main reason that Mill calls proportional representation the “first principle of democracy:” “It is an essential part of democracy that minorities should be adequately represented. No real democracy, nothing but a false show of democracy, is possible without it.”⁷⁰ The representative assembly cannot effectively perform its job as a deliberative and controlling body—representing *everyone’s* interests—if significant minority interests do not have a voice within it.⁷¹

The basic democratic constraint on Mill’s organizational proposals is that, whatever reforms are made to increase the influence of certain groups (including the more competent), they must not undermine the rest of society’s capacity to assert itself (if needed) in defiance of any minority. He believes all of his organizational designs—even his scheme of plural voting—to be consistent with *this* conception of democracy.

Organizational Arguments for Liberty

Moving from the form of government to the scheme of centralization, Mill suggests two main ways that organizational considerations should inform the latter in a civilized society. First, he argues for a principled limit on the sovereign’s right to interfere with local government in purely local matters. He writes, “It is obvious, to begin with, that all business purely local—all which concerns only a single locality—should devolve upon the local authorities [...]. The nation at large is interested in them in no other way, than that in which it is interested in the private well-being of all its individual citizens.”⁷² Again, competence considerations justify this limit on the sovereign’s authority. While central authorities are more likely to have greater intellectual capacities and to know more about how to govern *in general*, Mill argues that their relative lack of knowledge of the details of local matters means that local bodies should decide them: “I need not dwell on the deficiencies of the central authority in detailed knowledge of local persons and things [...].”⁷³

Second, in *Principles of Political Economy* Mill argues on competence grounds for a principled limit on social interference with purely personal matters, concerning only oneself. This limit is not the general, defeasible presumption against interference justified earlier on educative grounds, but a further organizational principle based on competence considerations:

there is a part of the life of every person who has come to years of discretion, within which the individuality of that person ought to reign uncontrolled either by any other individual or by the public collectively [...]. I apprehend that it ought to include all that part which concerns only the life, whether inward or outward, of the individual, and does not affect the interests of others, or affects them only through the moral influence of example.⁷⁴

Now, a strict anti-paternalism principle like this might also gain support from educative considerations, but it is unlikely that they alone could ever justify more than a general non-interference principle. In his discussion of the anti-paternalism principle in *Principles of Political Economy*, Mill does not carefully distinguish educative from organizational considerations, but among the reasons he cites is competence: “people understand their own business and their own interests better, and care for them more, than the government does, or can be expected to do.”⁷⁵ This claim would presumably be strongest with regard to purely personal matters, especially for any “person who has come to years of discretion.” Bearing in mind how competence considerations figure in the organizational recommendations canvassed above, it seems likely that they are also the key to Mill’s strict anti-paternalism, over and above any educative considerations justifying a general non-interference principle.

What we have found, then, is that organizational considerations speak to both the form of government and degree of centralization, specifying a set of institutional arrangements consistent with the general liberal democratic commitments justified on educative grounds. And these

proposals all focus on giving decision-making authority on some matter to the most competent available party.

Before moving on to *On Liberty*, it is worth noting again that although Mill treats the need for a democratic check on power and liberal social conditions as hard-won historical truths, he often expresses a willingness to reconsider his specific organizational proposals. Proposals such as plural voting are less fundamental to his framework than, say, his commitment to free discussion. Mill never seriously entertains the thought that free discussion and social experimentation are not essential to a progressive modern society, but he does second-guess his plural voting proposal.

It is also important to see that, strictly speaking, all of the specific organizational proposals concern only *delegated* authority. They are Mill's recommendations to the democratic sovereign for how and when (not) to assert its ultimate control over organizational issues themselves: "the powers which [a representative government] leaves in hands not directly accountable to the people, can only be considered as precautions which the ruling power is willing should be taken against its own errors."⁷⁶ Their authority may be delegated to localities and individuals where appropriate, and checked by complex governmental designs, but "This ultimate power they must possess in all its completeness. They must be masters, whenever they please, of all the operations of government."⁷⁷

The public may therefore *rightfully* assert its ultimate authority at any given time, but Mill argues that it would be irrational for it to do so, and therefore it should limit its own governing authority in principled ways or otherwise decide not to interfere even when it has not delegated its authority.⁷⁸ Crucially, however, although the democratic sovereign may override proposed organizational limits, it may *not* undermine the conditions of free discussion and social experimentation justified on educative grounds.⁷⁹ Those commitments are necessary for any reasonable expectation of improvement at all.

We now have a model of Mill's institutional design approach that we can apply to *On Liberty*. On this model, Mill's designs aim to specify a

form of government and scheme of centralization for a given state of society. They are structured by educative and organizational elements, with the educative coming first. Organizational proposals then specify a set of institutional arrangements meant to promote competent decision-making, all consistent with his educative commitments.

III: *On Liberty* in Design Context⁸⁰

Finally, then, we are in position to take stock of *On Liberty* in light of Mill's institutional design approach. I believe the purpose of *On Liberty* is to address educative and organizational aspects of a particular question about centralization, namely, the extent to which, in a civilized society, the individual should be free from social and political interference.⁸¹ At the beginning of the essay, Mill assumes that democracy is the appropriate form of government for civilized society—that is not his interest here—but he uses the historical rise of democracy to motivate a discussion concerning the limits of social or political authority. He argues that it is a mistake to believe, as some have, that settling the form of government in favor of democracy obviates the need to address centralization questions.⁸² Because even democracy may result in a “collective despotism” of the majority, he argues that we must still address “the nature and limits of the power which can be legitimately exercised by society over the individual.”⁸³ In what follows, I try to show that the argument of *On Liberty* exactly fits the institutional design approach with regard to centralization. If successful, we will have gone some way toward revealing a common mode of thought underlying Mill's political works, and toward understanding how the arguments of *On Liberty* form a unified whole.

The Educative Element in On Liberty

The central argument of *On Liberty*—contained principally in the chapters on free discussion and individuality—highlights liberty's contribution to the educative social conditions appropriate to a civilized society. As we saw, Mill reports in his *Autobiography* that *On Liberty* is a “a kind of philosophic text-book of a single truth,” namely, “[...] the

importance, to man and society, of a large variety in types of character, and of giving full freedom to human nature to expand itself in innumerable and conflicting directions."⁸⁴ This recalls the earlier passage from *Principles of Political Economy* concerning the "multiform development of human nature," where bringing different ideas into "stimulating collision" is "the mainspring of mental and moral progression." In *On Liberty*, Mill similarly defends conditions of free discussion and "experiments in living" that allow for the free development of individuals by facilitating criticism, learning, and innovation.⁸⁵ He reminds us of "[...] the source of everything respectable in man either as an intellectual or as a moral being, namely, that his errors are corrigible. He is capable of rectifying his mistakes, by discussion and experience [...]."⁸⁶ Discussion and experience not only provide a check on collective despotism, but in civilized circumstances are the main drivers of individual and social development.

In line with his comments in other works, Mill argues in Chapter 2 of *On Liberty* that discussion should be utterly unrestricted. He argues that whether received opinion is possibly false or certainly true, discussion is so valuable for individual and social improvement that the harms of restricting discussion always outweigh the benefits.⁸⁷ His extended defense reinforces the claim that free discussion is *the* key educative commitment with regard to the degree of centralization appropriate to civilized society. Any form of government must respect that constraint on its authority. This is why he argues that restrictions on free discussion by social authority are not just wrongheaded within its appropriate limits, but actually transgresses those limits: "I deny the right of the people to exercise such coercion, either by themselves or by their government. The power itself is illegitimate. The best government has no more title to it than the worst."⁸⁸

Beyond free discussion, Mill argues that the educative conditions of "discussion and experience" require an unspecified (but sufficient) degree of liberty for individuals to pursue different "modes of life."⁸⁹ This is the argument primarily of Chapter 3 of *On Liberty*, in which he expounds the importance of a general non-interference principle. Echoing *Principles of Political Economy*, he argues that where

individuals are subject to despotic or overbearing social or political forces, we find them “cramped” and “inert and torpid” or mere “sheep.”⁹⁰ Society will tend to “prevent the formation of any individuality not in harmony with its ways and compel all characters to fashion themselves upon the model of its own.”⁹¹ At the beginning of Chapter 3, he thus argues that the educative considerations justifying free discussion should also apply, with some qualifications, to modes of life.⁹² Individuality is “quite the chief ingredient of individual and social progress.”⁹³ The core of *On Liberty* is his argument that, in civilized circumstances, individual liberty is vital to that development:

The spirit of improvement is not always a spirit of liberty, for it may aim at forcing improvements on an unwilling people: and the spirit of liberty, in so far as it resists such attempts, may ally itself locally and temporarily with the opponents of improvement: but the only unfailing and permanent source of improvement is liberty, since by it there are as many possible independent centres of improvement as there are individuals.⁹⁴

The central argument of *On Liberty* is an educative argument for individual liberty. When Mill refers early on to “utility in the largest sense, grounded on the permanent interests of man as a progressive being,”⁹⁵ he invokes his commitment to the educative conditions of “discussion and experience” that place limits on the scope of social authority.

In and of itself, this might not surprise Mill scholars, but by setting his argument in design context we are able not only to see connections with his other political works, but to get leverage on the interpretive problems mentioned at the outset. In particular, as I will now argue, the focus on Mill’s institutional designs helps to explain how he justifies the liberty principle if not by appeal to the educative arguments just rehearsed, and shows that the arguments of *On Liberty* are a consistent part of Mill’s approach.

The Liberty Principle as an Organizational Proposal

Within the liberal educative conditions appropriate to civilized society, Mill turns in *On Liberty* to a single organizational proposal, the liberty principle, which he asserts is the "object" of his essay:

the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will is to prevent harm to others [...]. The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign.⁹⁶

For our purposes, what matters is that the liberty principle prohibits absolutely any paternalistic social or political interference with the liberty of rational adults.⁹⁷ It denies that social authority may rightfully consider interference on the basis of the individual's own good. Attending to Mill's institutional design approach reveals that the liberty principle is specifically justified not on educative, but on organizational, grounds.

This interpretation of the liberty principle draws strong support from the opening paragraphs of Chapter 4 of *On Liberty*, which provide Mill's fullest discussion of the nature and rationale of the liberty principle. He there restates it in a way that highlights the organizational emphasis on jurisdiction:

As soon as any part of a person's conduct affects prejudicially the interests of others, society has jurisdiction over it, and the question whether the general welfare will or will not be promoted by interfering with it, becomes open to discussion. *But there is no room for entertaining any such question* when a person's conduct affects the interests of no persons besides himself [...]. In all such cases there should be perfect freedom, legal and social, to do the action and stand the consequences.⁹⁸

In other words, society may consider the practical question of how and whether to interfere only within its jurisdiction, and its jurisdiction does not extend to purely personal matters. In the following paragraph, he then presents a *competence* rationale for the liberty principle:

But neither one person, nor any number of persons, is warranted in saying to another human creature of ripe years, that he shall not do with his life for his own benefit what he chooses to do with it [...] with respect to his own feelings and circumstances, *the most ordinary man or woman has means of knowledge immeasurably surpassing those that can be possessed by any one else* [...]. In this department, therefore, of human affairs, Individuality has its proper field of action.⁹⁹

On Mill's view, the epistemic standing of the rational adult with regard to his own good exceeds that of anyone else, in virtue of his familiarity with the complex particularities of "his own feelings and circumstances." He also appeals to *interest* as a test of competence, arguing that the interest of the individual in his own good is a strong indication that he will be uniquely attentive to, and familiar with, the details of his situation.¹⁰⁰

In keeping with other organizational proposals canvassed above, Mill argues that the *specific* justification of the absolute, anti-paternalistic liberty principle—distinct from the general educative arguments for individual liberty—is that *ex ante* the rational adult is always more likely than any other party to make the best decisions with regard to his own good. This is not to suggest that the individual is always *correct* about these matters. But it is to say that, on Mill's view, the rational individual is always more competent with regard to his own good, and that it would always be practically irrational to substitute the decision of a less competent party for that of the individual.¹⁰¹ Consider how this resonates with Mill's comments on "pledges" and plural voting.

The claim that the rational individual is *always* the most competent available judge of his own good is contentious, to say the least.

Nevertheless, I believe this interpretive claim is forced upon us by two further cases that exactly parallel the liberty principle case, in which Mill also justifies an absolute rule explicitly on competence grounds despite being generally skeptical of absolute rules.

The first case was mentioned above, concerning control over purely local matters by local authorities. As we saw, Mill argues that, without exception, "*all* business purely local [...] should devolve upon the local authorities" rather than be decided by the central government. This limit on central authority is then explicitly justified by competence considerations regarding the "deficiencies of the central authority in detailed knowledge of local persons and things."

The second case concerns the question of when, if ever, a civilized country may intervene in the purely domestic affairs of another civilized country.¹⁰² In a key passage from an 1865 letter to James Beal, in which Mill succinctly states his positions on a number of issues (to aid the consideration of him as a candidate for Parliament), he writes:

Every civilised country is entitled to settle its internal affairs in its own [way], & no other country ought to interfere with its discretion, because one country, even with the best intentions, has *no chance of properly understanding* the internal affairs of another: but when this *indefeasible* liberty of an independent country has already been interfered with; when it is kept in subjection by a foreign power, either directly, or by assistance given to its native tyrants, I hold that any nation whatever may rightfully interfere to protect the country against this wrongful interference.¹⁰³

Note the structural parallels to the liberty principle case. Mill here argues that "civilized" states (in place of rational adults) should be understood to have control over their own good. As with the liberty principle, he argues that this right is indefeasible (except when a clearly discernible preference by a civilized people to determine its own affairs is *already* being thwarted by some external power). What is more, Mill's claim here

is explicitly based on competence considerations concerning what an external power has a “chance of properly understanding” of another state’s internal affairs.

In both these parallel cases, then, Mill’s argument for an absolute principle is expressly grounded in a competence claim about the protected party’s greater knowledge concerning its own particular circumstances, mirroring the individual’s “means of knowledge” about his own circumstances. Given the similarities among these cases, we have strong reason to suspect that his justification of the liberty principle is meant to follow the same pattern. If this is right, then the liberty principle is also of a piece with the many competence-based elements of Mill’s theory of representative democracy, because they are all organizational proposals in Mill’s institutional designs.

The institutional design view shows that, in reading *On Liberty* it is especially important to keep its overarching, educative argument for individual liberty distinct from its narrower organizational argument for the liberty principle. Each of these elements—the defenses of free discussion and individuality, the liberty principle itself, and his competence-based rejection of paternalistic interference—represents an aspect of Mill’s consistent utilitarian approach to institutional designs. The institutional design view can straightforwardly explain the purpose of chapters 2 and 3 in the overall argument of *On Liberty*. The difficulty of how the liberty principle then relates to those chapters also vanishes once we clearly distinguish the educative arguments for free discussion and individuality from the specific organizational justification of the liberty principle.

The institutional design view also clarifies how Mill can argue for an absolute anti-paternalism principle. Seeing the liberty principle as an organizational proposal allows us to appreciate the significance of his competence-based justification of it in Chapter 4 of *On Liberty*. Taking a critical perspective, it also shows the limited effect on Mill’s *overall* defense of liberty if the organizational argument for an absolute principle were to fail. In light of modern psychology and behavioral economics, I believe Mill could accept that the competence argument for an *absolute*

principle fails without threatening his educative arguments at all. The liberty principle is just one part of Mill's overall defense of individual liberty. By contrast, those who believe that the liberty principle is itself justified directly by Mill's educative arguments have no good way either to explain the absoluteness of the liberty principle in the first place or to assess the damage to his overall defense of individual liberty if the liberty principle—as an absolute principle—cannot be sustained.

IV: Conclusion

I have tried to show that the argument of *On Liberty* fits neatly into a properly reconstructed account of Mill's institutional design approach. In that essay, he sets aside the question of the form of government, and focuses on the question of centralization in a civilized society. In endorsing limits on social authority, he first (in order of importance) commits to key educative conditions and then introduces and defends an important organizational principle on competence grounds.

Focusing on Mill's institutional design approach also reveals a continuity in Mill's political thought not fully recognized by commentators. Given that *On Liberty* and *Representative Government* were written nearly contemporaneously and they address related political subjects, we should expect them to share a similar underlying approach. This will challenge some people's understanding of Mill's liberalism in a fundamental way, for it shows that *On Liberty* carefully works out a set of liberty-related issues within a methodical utilitarian approach to social and political problems. However, if the attention to Mill's institutional design approach is on the right track, then perhaps, by bearing in mind the structure of his designs, we can better address many of the other long-standing difficulties that have so troubled interpreters of *On Liberty*.¹⁰⁴

Notes

The abbreviation CW refers to John Stuart Mill, *Collected Works of John Stuart Mill*, 33 Volumes, ed. John M. Robson (Toronto: University of Toronto Press, 1963-1991)

¹ In the last paragraph of Chapter 1, Mill seems to suggest that the defense of free discussion will come through an application of the liberty principle (CW 18:227).

² CW 18:223.

³ On this point, see Riley 2005. I am here setting aside Mill's argument that silencing discussion is an "assumption of infallibility" (but see Turner, 2013a and 2014 for a detailed discussion).

⁴ CW 18:257.

⁵ CW 1:259.

⁶ I address these problems, respectively, in Turner, 2013b and 2014.

⁷ *Considerations on Representative Government*, hereafter shortened to *Representative Government*, was published in 1861. *On Liberty* was published in 1859. The themes in both works occupied Mill in different forms over the course of many years.

⁸ Commentators have noted, for instance, that democratic participation contributes to the development of individuality (which in turn is at the heart of Mill's conception of human happiness) or that individuality is part of Mill's ideal of democratic citizenship. But such observations do not amount to a shared approach in *On Liberty* and *Representative Government*. See, for instance: Ryan 1975, 201; Skorupski 2006, 91; Zakaras 2009. Jonathan Riley (2007) argues more systematically that Mill's well-functioning democracy is fundamentally defined by its securing an equal system of liberal rights and encouraging the development of individuality. I worry, however, that this interpretation does not fully accommodate the competence-driven elements of Mill's representative system. Regardless, even Riley does not see the two works as expressions of the very same institutional design approach.

⁹ See, e.g., Arneson 1982. For judicious overviews of Mill's theory of representative government, including its élitist elements, see: Duncan 1969; Ryan 1975, 190-217; Miller 2010, Chapter 9.

¹⁰ CW 19:383.

¹¹ CW 19:389. In calling it the "educative" aim, I follow Pateman 1970 and Thompson 1976. Unless otherwise noted in the text, Mill

citations refer to *Considerations on Representative Government*.

¹² CW 19:389.

¹³ CW 18:272.

¹⁴ I should note from the outset that my view diverges from Dennis Thompson's influential account of Mill's theory of government, according to which Mill's designs are the result of balancing two "coequal" principles: the "principle of participation" and the "principle of competence." On Thompson's view, educative and "protective" considerations underlie each of those coequal principles, which then are balanced against each other to make specific institutional recommendations: "The principle of participation constrains the principle of competence, just as the latter principle limits the former" (Thompson 1976, 10). But, despite many valuable discussions of Mill's central claims, Thompson's account does not manage to piece together Mill's view. First, although both participatory and competence elements do significant work in Mill's designs, he never presents his designs as balancing just those two coequal principles. Second, this account fails to register sufficiently the leading role of certain educative arguments underlying Mill's designs that go beyond specifically participatory considerations. So let us start from the beginning.

¹⁵ In "Centralisation" (1862) Mill notes that the "noisy and exciting subject of Forms of Government" comes first in the "natural order of discussion" (CW 19:581).

¹⁶ CW 19:422, 650, 652. See also "Parliamentary Reform [1]" (1824), CW 26:264.

¹⁷ "Centralisation," CW 19:581.

¹⁸ Despotism, Mill writes, means "holding other beings in subjection to [one's] will" ("Nature" (1874), CW 10:398).

¹⁹ States of society change along many dimensions: "What is called a state of society, is the simultaneous state of all the greater social facts or phenomena" (for discussion, see *A System of Logic* (1843), CW 8:911-12).

²⁰ CW 19:383-84.

²¹ CW 19:388.

²² CW 1:177.

²³ CW 19:386. For an early defense of the possibility of progress, see “The Church” (1828), CW 26:424. As we shall see, in *On Liberty* Mill articulates an overarching “progressive principle,” where liberty is defended as “the only unfailing and permanent source of improvement” once a society has reached a stable, cooperative—i.e., “civilized”—state (CW 18:272).

²⁴ CW 19:388.

²⁵ CW 19:392.

²⁶ CW 19:390.

²⁷ CW 19:393.

²⁸ CW 19:394.

²⁹ CW 19:390. Pateman and Thompson call this the “protective” aspect of Mill’s designs. With Miller, I find that this label poorly captures everything Mill means to include under it (Miller 2010, 172).

³⁰ *Ibid.* 404:392. On “official aptitude,” see Schofield 2006, Chapter 11 and Turner 2019. Although Mill shares Bentham’s concern with official aptitude, or competence, he criticizes Bentham for ignoring the educative division of merit (“Bentham,” CW 10:99).

³¹ *Ibid.* 392.

³² *Ibid.* 390.

³³ *Ibid.* 392.

³⁴ *Ibid.* 393.

³⁵ CW 19:397.

³⁶ For an excellent discussion of this topic in Mill, see McCabe 2019.

³⁷ CW 19:396; emphasis added.

³⁸ These general features, to borrow a phrase from *On Liberty*, are “*permanent* interests of man as a progressive being” (CW 18:224, emphasis added).

³⁹ “Civilization” (1836), CW 18:122.

⁴⁰ For Mill’s Hobbesian view of the state of nature, see CW 19:394, as well as his “Chapters on Socialism” (1879), CW 5:749, and “Use and Abuse of Political Terms” (1832), CW 18:10-11. On Mill’s view, all

societies on all continents have required an initial despotic stage.

⁴¹ CW 19:394.

⁴² CW 19:419, 401.

⁴³ "Civilization," CW 18:120. Mill adds: "There is not a more accurate test of the progress of civilization than the progress of the power of co-operation" (CW 18:122).

⁴⁴ CW 19:567, 396. In *On Liberty*, Mill writes: "The early difficulties in the way of spontaneous progress are so great, that there is seldom any choice of means for overcoming them; and a ruler full of the spirit of improvement is warranted in the use of any expedients that will attain an end, perhaps otherwise unattainable" (CW 18:224).

⁴⁵ CW 19:406.

⁴⁶ CW 19:412.

⁴⁷ See CW 19:469.

⁴⁸ Though participatory considerations are important, Thompson and others have overstated their role in Mill's institutional designs. For Mill, participation is—like individual liberty—a particular means to the "moral, intellectual, and active" development of the people, appropriate to certain social and political circumstances, rather than a universal desideratum for any form of government. See, e.g., Thompson 1976, 9-10, 197; and Riley 2007, 232 for effective criticism.

⁴⁹ CW 27:661-62.

⁵⁰ CW 19:436. Importantly, though, whatever else a democratic government may do, it may not restrict freedom of discussion (short of cases of "extreme exigency").

⁵¹ CW 3:940. The paragraph containing this passage provides a succinct summary of the overarching educative argument of *On Liberty* (published more than a decade later).

⁵² "Principles of Political Economy," CW 2:209.

⁵³ "Principles of Political Economy," CW 3:936, 938. For a helpful discussion, see Gerald Gaus 2008, 91.

⁵⁴ CW 19:392.

⁵⁵ Although Mill invokes the "moral, intellectual, and *active*" qualities

of individuals, he often sets aside the third category, which concerns the degree to which one is likely to exert oneself to achieve the good, as opposed to being just disposed to the good and able to discern what is good.

⁵⁶ CW 19:441.

⁵⁷ “Appendix B” (1859/1835), CW 19:650.

⁵⁸ “Appendix B,” CW 19:648. For James Mill’s political philosophy, see Loizides 2019.

⁵⁹ “Appendix B,” CW 19:649.

⁶⁰ CW 19:392.

⁶¹ CW 19:432.

⁶² CW 19:426, emphasis added. For extended accounts of the role of representative assembly as the controlling but not governing power, see CW 19:423-26, 433-34.

⁶³ CW 1:265; see also CW 19:430.

⁶⁴ “Pledges [2]” (1832), CW 23:497.

⁶⁵ “Thoughts on Parliamentary Reform” (1859), CW 19:323.

⁶⁶ CW 19:323.

⁶⁷ CW 19:473.

⁶⁸ CW 19:362.

⁶⁹ “Thoughts on Parliamentary Reform,” CW 19:329.

⁷⁰ CW 19:452.

⁷¹ See CW 19:449. A prominent account of Mill as a deliberative democrat is Urbinati 2002.

⁷² CW 19:541.

⁷³ CW 19:543.

⁷⁴ CW 3:938.

⁷⁵ CW 3:942.

⁷⁶ CW 19:423.

⁷⁷ CW 19:422. See also CW 23:502.

⁷⁸ See “Appendix B,” CW 19:652.

⁷⁹ This is one way of stating the claim at the heart of Mill’s famous “assumption of infallibility” argument in *On Liberty*.

⁸⁰ References to Mill’s *Collected Works* in this section will be to *On*

Liberty unless otherwise noted.

⁸¹ In *On Liberty* Mill addresses not only government but less formal social authorities. He often employs "society" or "social authority" to refer to any or all of the social or political authorities, and he applies the same educative and organizational considerations about centralization to them all.

⁸² CW 18:219.

⁸³ CW 18:217.

⁸⁴ CW 1:259.

⁸⁵ CW 18:281.

⁸⁶ CW 18:231-32.

⁸⁷ It is not often noted that in Chapter 2 of *On Liberty* Mill focuses only on "discussion," though he may also reject restrictions on *other* forms of speech. By "discussion" he means the sincere expression of moral and political opinion, regulated by concerns of fair play and truth. His ideal is captured in his description of the "real morality of public discussion" in *On Liberty*: "[...] giving merited honour to every one, whatever opinion he may hold, who has calmness to see and honesty to state what his opponents and their opinions really are, exaggerating nothing to their discredit, keeping nothing back which tells or can be supposed to tell, in their favour" (CW 18:259). See also "The French Law Against the Press" (1848), CW 25:1118.

⁸⁸ CW 18:229. For a full account of Mill's defense of free discussion, see Turner 2013a.

⁸⁹ CW 18:270.

⁹⁰ CW 18:242, 265, 270; see also 264, 310.

⁹¹ CW 18:220.

⁹² CW 18:260.

⁹³ CW 18:261.

⁹⁴ CW 18:272. The following passage from the very end of *On Liberty* also takes on heightened significance: "The worth of a State, in the long run, is the worth of the individuals composing it; and a State which postpones the interests of their mental expansion and elevation [...] will

find that with small men no great thing can really be accomplished” (CW 18:310).

⁹⁵ CW 18:224.

⁹⁶ CW 18:223, 224.

⁹⁷ Mill explicitly states that the principle does not apply to “Those who are still in a state to require being taken care of by others,” including children, those in “backward states of society” (CW 18:224), and those not in “full use of the reflecting faculty” (CW 18:294).

⁹⁸ CW 18:276, emphasis added.

⁹⁹ CW 18:277, emphasis added.

¹⁰⁰ CW 18:277.

¹⁰¹ See Turner 2013b for a full discussion of Mill’s position on this point. His claim may strike us now as wrong, but I contend that it is his view.

¹⁰² This is not the place to address Mill’s views on international intervention or colonialism, but this passage speaks directly to Mill’s institutional design approach. For an excellent discussion of Mill’s approach to international relations, see Varouxakis 2013.

¹⁰³ CW 16:1033, emphasis added.

¹⁰⁴ This paper benefited from audiences at Bowling Green State University and San Francisco State University. For extensive comments on an earlier draft, I am grateful to Dale Miller. Thanks also to Sven-Ove Hansson for valuable feedback and for editing this special issue.

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